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RIVERSIDE COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT

June 27, 2007

Mr. Michael Adackapara
California Regional Water Quality Control Board
Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501

Dear Mr. Adackapara:

Re: Response to Review of 2007
Report of Waste Discharge (ROWD)

On April 26, 2007 the Riverside County Permittees submitted a Report of Waste Discharge (ROWD) to the Santa Ana Regional Water Quality Control Board (Regional Board) for renewal of the Municipal Separate Storm Sewer System (MS4) Permit. On May 29, 2007 the Regional Board responded to the ROWD in a letter entitled "Review of 2007 Report of Waste Discharge for the Riverside County Flood Control and Water Conservation District, the County of Riverside and the Incorporated Cities of Riverside County, NPDES No. CAS618033, Areawide Urban Storm Water Runoff" (Review Letter). The Review Letter states that the ROWD is incomplete and identifies five items that must be submitted by June 30, 2007.

The Review Letter contents were disappointing inasmuch as the Permittees established a Working Group to guide preparation of the ROWD to ensure that it fully met all of the requirements, including provisions specified in Section XVI of the 2002 Santa Ana Region NPDES MS4 Permit for Riverside County. In addition to meeting numerous times from November 2006 through April 2007, the Working Group also met with Regional Board staff on January 15, 2007 to ensure that the ROWD would be complete and meet or exceed Regional Board expectations. The development of the ROWD required a substantial investment of public agency time and resources. At no time during the January-15, 2007 meeting did Regional Board staff indicate that the Permittees would need to comply with anything other than the typical reapplication requirements contained in Section XVI of the Santa Ana Region NPDES MS4 Permit for Riverside County.

To facilitate a proper response to the Review Letter, the District representing the Permittees met with Regional Board staff on June 7, 2007. During that meeting, the Permittees representatives noted that they had reviewed the Regional Board's response and had determined that the ROWD was complete, and that the Review Letter asked for additional information that is not mandated by federal and state law nor the existing Permit related to submission of the ROWD. However, in the interest of facilitating a positive permit renewal process, the following agreements were reached:

1. The Permittees each would be committed to providing an individual letter of intent for permit reapplication (attached).

2. That Bullet #5 of the Review Letter was not applicable to a determination of ROWD completeness, and that the issues raised in Bullet #5 would be addressed as part of the permit renewal process.
3. A follow-up meeting would be scheduled to discuss whether Permittee Annual Reports met the intent of Bullet #s 2 through 4 of the Review Letter. A meeting between Keith Elliot and Linda Garcia was proposed.

Jason Uhley, Linda Garcia and Arlene Chun of District staff held a follow up meeting with Keith Elliot of Regional Board staff on June 20, 2007 to discuss Bullet #s 2 through 4 of the Review Letter. The balance of this letter summarizes the position presented by the Permittees' representatives at the June 7th meeting and also summarizes the result of the June 20th meeting (that includes agreement by the Permittees representatives to provide additional information).

FORMAL EPA POLICY INDICATES THAT 40 CFR 122.26(D) REQUIREMENTS SHOULD ONLY APPLY TO INITIAL PERMIT APPLICATIONS

The Review Letter bases the finding that the ROWD is incomplete on a review of 40 CFR 122.26(d). However, on May 17, 1996 the United States Environmental Protection Agency (USEPA) announced a federal policy, signed by Robert Perciasepe, Assistant Administrator for Water, clarifying the requirements for MS4 NPDES permit reapplication (Reapplication Rule):

"Are Initial MS4 Permit Application Requirements Applicable to Permit Reapplication?

No... The MS4 permit applications requirements at 40 CFR 122.26 (d) (1) and (2) apply to the first round permit applications required of large and medium MS4s. The permit applications deadline regulations in 40 CFR 122.26 (e) (3) and (4) clearly reflect the "one time" nature of the Part I and II application requirements for large and medium MS4s."¹

This ROWD is an application for the third renewal of the Phase I MS4 Permit, and therefore it is unnecessary and burdensome to subject the reapplication to all of the requirements in 40 CFR 122.26(d).

The Permittees would also note that the Reapplication Rule clearly notes that the Program Administrator has the authority to define the requirements for Permit reapplication:

"What Basic Information Must Be Submitted for an MS4 Permit Reapplication?

EPA is committed to allowing permitting authorities to develop flexible reapplication requirements that are site specific. In the absence of reapplication regulations specific to MS4s, minimum reapplication requirements are drawn from the generic NPDES permit

¹ Federal Register: August 9, 1996 (Volume 61, Number 155), Page 41697-41699

application regulations at 40 CFR 122.21(f). EPA regulations suggest the following basic information be included as part of any permit reapplication:

Name and mailing address(es) of the Permittee(s) that operate MS4; and

Names and titles of the primary administrative and technical contacts for the municipal permittee(s).

... EPA Encourages permitting authorities to make use of the fourth year annual report as the basic permit reapplication package."

The Reapplication Rule clearly states that the application requirements are to be defined by the Permit Administrator. The reapplication requirements were clearly and unambiguously described by the Permit Administrator in Section XVI of the 2002 MS4 Permit.

THE 2002 NPDES MS4 PERMIT CLEARLY DEFINED THE ROWD REAPPLICATION REQUIREMENTS APPLICABLE TO THE PERMITTEES

Section XVI of Board Order R8-2002-0011, NPDES No. CAS 618033. Waste Discharge Requirements for The Riverside County Flood Control and Water Conservation District, the County of Riverside, and the Incorporated Cities of Riverside within the Santa Ana Region clearly described the reapplication requirements for a new MS4 permit by submitting the ROWD:

- A. "This Order Expires on October 26, 2007, and the Permittees must file a ROWD no later than one hundred eighty (180) calendar days in advance of such expiration date as application for issuance of new Waste Discharge Requirements. The ROWD shall, at a minimum, include the following:
1. Any revisions to the DAMP including, but not limited to, activities the Permittees propose to undertake during the next permit term, goals and objectives of such activities, an evaluation of the need for additional source control and/or structural BMPs, proposed pilot studies, etc.;
 2. Any new or revised program elements and compliance schedule(s) necessary to comply with Section III of this Order;
 3. Changes in land use and/or population including map updates; and
 4. Significant changes to the MS4s, outfalls, detention or retention basins or dams, and other controls, including map updates of the MS4s."

The Permittees' ROWD comprehensively addresses the ROWD requirements specified in Section XVI. The Permittees would also note that at no time during the January 15, 2007 meeting or at any

time prior to the submittal of the ROWD did the Regional Board staff inform the Permittees that anything but the typical reapplication requirements of Section XVI of the MS4 permit would need to be satisfied for the purpose of submitting the ROWD.

In addition, in the ROWD the Permittees provided a completely revised draft MS4 Permit for the Regional Board's consideration. The ROWD and revised draft MS4 Permit not only address the requirements specified above, but also propose significant MS4 program enhancements to address issues raised by the Regional Board staff at the January 15, 2007 meeting regarding MS4 Permit renewal.

PRIOR NPDES MS4 PERMITS FROM THE SANTA ANA RWQCB HAVE ALL INCLUDED GUIDANCE ON REQUIREMENTS FOR ROWD SUBMITTAL AND EACH TIME THE PERMITTEES COMPLIED WITH THOSE REQUIREMENTS

Both the first and second term NPDES MS4 Permits for Riverside County (Board Orders 90-104 and 96-30) included ROWD submittal requirements similar to Section XVI of the third term NPDES MS4 Permit (Board Order R8-2002-0011). The Permittees developed prior ROWDs in compliance with those Board Orders and those ROWDs were not identified as incomplete.

SUMMARY OF THE JUNE 20, 2007 MEETING WITH REGIONAL BOARD STAFF

On June 20, 2007, Jason Uhley, Arlene Chun and Linda Garcia of District staff met with Keith Elliot of Regional Board staff to discuss Bullet #s 2 through 4 of the Review Letter.

The District noted in the meeting that the Reapplication Rule states:

"EPA Encourages permitting authorities to make use of the fourth year annual report as the basic reapplication requirements." (Page 41698)

To that end, the majority of the meeting revolved around a review of the monitoring, effectiveness analysis and program evaluation components contained in the annual report.

To lead off the meeting, District staff summarized some key points of the annual report:

1. Section 11.6 of the Annual Report provides wet and dry season parameter concentrations and loads for each of the seven outfalls monitored during the reporting period.
2. Section 11.6 of the Annual Report summarizes historical data for each outfall monitored, including trend analysis for each parameter monitored, and analysis of current year and historical parameter concentrations measured above Water Quality Objectives at the outfall.

3. Section 11.7 of the Annual Report contains an assessment of the Permittees' compliance. In this section, the Permittees summarize their compliance with Section III of the Santa Ana NPDES MS4 Permit (Receiving Waters Limitations). Parameters persistently measured above Water Quality Objectives are discussed and necessary program modification actions are recommended.
4. Section 12 of the Annual Report contains an effectiveness evaluation of the Permittees' compliance programs. This evaluation summarizes data collected during the current reporting period, including load reduction data, and summarizes recommended changes to the program necessary to mitigate the impacts of urban runoff to the maximum extent practicable. In total, 11 specific revisions were proposed to program compliance programs based on the effectiveness analysis.

After the summary of key points of the Annual Report, the group reviewed the specific Bullet point numbers contained in the Review Letter. The findings of those reviews follow:

THE PERMITTEES' 4TH YEAR ANNUAL REPORT MEETS THE INTENT OF REVIEW LETTER - BULLET #2

During the meeting it was noted by District staff that Section 122.21(g)(7)(ii) is specific to application requirements for existing manufacturing, commercial, mining and silviculture dischargers.

Section 122.21(g)(7)(ii) specifies procedures to be used in sample collection. Section 11-2 of the Annual Report summarizes the procedures Permittees used during sample collection. Specifically, the Permittees have an existing Consolidated Monitoring Program, which has been submitted to the Regional Board multiple times as part of prior Annual Reports that summarizes procedures and modeling, data analysis, and calculation methods consistent with NPDES MS4 Permit, state and federal requirements.

The Permittees also noted that they provide wet and dry season pollutant load information for each event monitored as part of the Permittees' monitoring program, in conformance with the Santa Ana NPDES MS4 Permit. Data is collected for three storms each season and at least two dry weather events, weather permitting. The data is summarized in Section 11, Tables 11-9 through 11-15 and 11-19 through 11-25.

THE PERMITTEES' 4TH YEAR ANNUAL REPORT MEETS THE INTENT OF REVIEW LETTER - BULLET #3

Regional Board staff indicated they were looking for pollutant load information for the monitoring data collected under the NPDES MS4 Permit.

The Permittees noted that they provide wet and dry season pollutant load information and event concentrations for each event monitored as part of the Permittees monitoring program, in conformance with the Santa Ana NPDES MS4 Permit. Data is collected for three storms each season and at least two dry weather events, weather permitting. The data is summarized in Section 11, Tables 11-9 through 11-15 and 11-19 through 11-25.

THE PERMITTEES' 4TH YEAR ANNUAL REPORT MEETS THE INTENT OF REVIEW LETTER - BULLET #4

Section 122.26(d)(2)(v) requires that initial permit applications submit available load reduction information. The Permittees provide available information on load reductions from the Permittees' MS4 programs (for HHW events, watershed clean up events, etc.) as part of each year's Annual Report in Section 12. Individual Permittees may also provide additional load reduction information in their individual annual reports.

Section 122.26(d)(2)(v) also required that initial permit applications also submit any known impacts of storm water controls on groundwater. Although the Permittees have no direct information on such impacts, the Permittees have attached a recent study by the Los Angeles and San Gabriel Rivers Watershed Council identifying the impacts of recharging urban runoff on groundwater basins. The aforementioned study clearly indicates that data collected to date indicate that there is no statistically significant degradation of groundwater quality from the infiltration of stormwater-borne constituents. The study has gone on to point out that groundwater quality has generally improved for most constituents at sites with shallow groundwater monitored as part of the study.

Finally, Regional Board staff asked for trend analysis of the water quality data. District staff noted that as part of each annual report graphs are plotted of the historical data for each constituent monitored at each station. These graphs are noted for any identifiable trends in water quality. The graphs are included electronically as Appendix 11-A of the Annual Report due to the sheer volume of graphs. These graphs are typically analyzed for trends as part of the Annual Report.

THE PERMITTEES REQUEST THAT A NOTICE OF ROWD COMPLETENESS BE SENT AS SOON AS POSSIBLE TO FACILITATE A TIMELY PERMIT RENEWAL PROCESS

The Permit renewal process cannot begin until the Permit application is determined to be complete by the Regional Board. The Permittees request that the Regional Board provide a finding that the ROWD is complete without delay.

June 27, 2007

THE PERMITTEES LOOK FORWARD TO A POSITIVE AND PRODUCTIVE PERMIT RENEWAL PROCESS WITH THE REGIONAL BOARD

Although the Permittees believe no additional information is required for a determination of completeness, to facilitate the positive cooperation that has existed between the Regional Board and the Permittees, the following additional information will be provided by the Permittees as part of our response to this letter:

1. The District will provide the Regional Board with two copies of our Flood Control Facility Maintenance Books as soon as reproduction is complete; and
2. The District will update the existing MS4 Facility Maps to include USGS Blue Line Streams and locations of existing NPDES MS4 Monitoring stations. The updated facility maps will be provided by July 31, 2007.

Again, the Permittees look forward to a positive and productive permit renewal process that will lead towards protecting water quality in a meaningful and productive way. We are hopeful that future communications from the Regional Board will also promote these goals.

If you have any questions regarding this response, please contact me at 951.955.8411, ssump@co.riverside.ca.us or Jason Uhley at 951.955.1273, juhley@co.riverside.ca.us.

Very truly yours,



STEPHEN E. STUMP
Chief of Regulatory Division

Enclosures: Letters of Intent from the Santa Ana Permittees
Los Angeles Basin Water Augmentation Study Phase II Final Report Summary

c: Santa Ana Region Co-Permittees
URS Corporation
Attn: Robert Collacott

P8/114552